MESSAGE

OF

HIS EXCELLENCY

LEVI LINCOLN,

COMMUNICATED TO THE

TWO BRANCHES OF THE LEGISLATURE.

JANUARY 2, 1828.

Boston:
DUTTON & WENTWORTH.....PRINTERS TO THE STATE.
Nos. 1 & 4 Exchange-Street.
.....
1828.

MESSAGE.

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

HAVING re-assembled for the dispatch of public business in the Legislative Department of the Government, your attention will naturally be first directed to those subjects which were presented for consideration, at the commencement of the political year, and to the measures which were then postponed, to await this more convenient opportunity for mature discussion, and a deliberate and judicious disposition.

The present time is preeminently favorable to a faithful and successful discharge of official obligations. In the entire absence of all topics for party excitement here, with a sentiment abroad and extensively prevailing and growing in the community, auspicious to the application of the highest means for intellectual, moral, and physical improvement, those who stand in responsible stations, have little to regard, but the greater occasion, which a state of prosperity creates for enlarging the capacities of public enjoyment, by strengthening and multiplying institutions for the lasting security of civil liberty, and

forming establishments and encouraging enterprizes to advance the business and promote the beneficial interests of society. It will continue to be, with an earnest and anxious desire to fulfil the duties of the relation which I am permitted to sustain towards you, that I shall seek to co-operate in whatever measures may be proposed for the best service of our immediate constituents and the peace, honor, and welfare, of our common country.

The Legislature having made competent provision, at the last session, for constituting a general Board of Internal improvement, and also a special Commission to survey a Route for a Railway from the city of Boston, *westward*, to the line of the state, and thence, if circumstances should invite, to the Hudson river, in the state of New-York, an immediate attention was given, by the Executive, to the appointment of suitable persons, to discharge these arduous and responsible offices; Gentlemen were selected, in the single consideration of competency to the service, from the number of distinguished individuals who were recommended by expressions of public confidence, or were known to possess peculiar qualifications for the employment. Pecuniary means for commencing the work were drawn from the appropriations of the Legislature and placed at the control of the respective Boards, and every possible arrangement was made to expedite the accomplishment of their assigned duties. The Commissioners promptly entered upon their engagements, and have prosecuted their labors with

exemplary fidelity and perseverance, through fatigue and constant exposure to all the changes of the late unusual and inclement season. Frequent storms and early cold have, however, greatly retarded their progress, and their examinations and surveys must necessarily have been less extensive and complete, than were intended. The precise details of the Reports which are to be expected, cannot now be anticipated. I have been assured, that they will be presented, as soon as it will be practicable to revise the minutes of surveys but recently made, to prepare the plans and estimates of expense, and somewhat, to arrange the mass of facts which have been collected in the country, from the various and disconnected sources, to exhibit the extent of business, and the consequent occasion and inducements to the proposed improvements. In the mean time, it may be gratifying to our fellow citizens to be informed, in the general, that the Commissioners of the Western Railway, under the sanction of that indulgence which was solicited from the Executive of New-York, have been enabled to extend their observations as far as the Hudson; that they have approached this extreme limit by different routes, which they have carefully examined, and are able accurately to compare, and that no greater obstacles are found to the whole undertaking, than an enlightened spirit of enterprize, and the useful application of means, from the abundant resources of a prosperous people, may successfully overcome. Their Report

will probably again present to the Legislature the interesting question of encouraging, by public appropriations, works of internal improvement; and if a sense of pecuniary interest may dictate any thing to official duty, or the love of home can add aught of motive to a generous regard for country, a consideration of the peculiar benefits which may be secured to the Commonwealth, alike with the suggestions of patriotism, which oftentimes exacts contributions for objects conducive to national grandeur and happiness, will direct to wise and liberal proceedings on the subject.

The general Board, under sundry resolves of a former Legislature, have had their attention directed to various objects. They were charged with the surveys of a route for a *Railway* from the city of Boston to Providence, and of a route for a *Canal* from the city, by the waters of Charles River, to the Blackstone Canal, and thence to the line of Connecticut, to connect with the proposed Canal from Norwich in that State, and also with a survey and an examination of the capacities of country to furnish a supply of water, without prejudice to existing hydraulic works, for a *Canal* from Western in the county of Worcester, to meet the Canal last mentioned from Connecticut. The causes before adverted to of weather and season, will prevent a full report upon all these subjects, during your present session. The Commissioners, as I am advised, have been able to *complete* only the examination and surveys of two entire Routes for a

Railway to Providence, with such lateral surveys as might assist in determining their precise direction and in the preference to be given between them. On either route, the country is found remarkably level and feasible for the proposed improvement, and no unexpected difficulty has appeared, discouraging to the undertaking. A particular report, by the Commissioners, of the performance of this portion of their duty, is promised to be soon placed in my power to lay before you, in compliance with the direction in the Resolves. The Routes for the contemplated Canals have been partially examined and some surveys made upon them, but it will require further opportunity, in a more favourable season of the year, to finish the service.

A commission constituted pursuant to a resolve of the Legislature of the fifteenth of February last, upon the petition and representation of the tenants of certain estates in the town of Freetown, in the County of Bristol, who held under titles derived from the Commonwealth, and against whom a legal recovery had been had in the Circuit Court of the United States, upon an adverse and paramount title, has been fully executed since the recess of the Legislature and a compromise and final settlement concluded between the Commissioners on the part of the Government, and the Demandant of the lands, by which the tenants are now quieted in their possessions. It satisfactorily appeared, that in the original process of confiscation, under the absentee act, so called, against the ancestor of the demand-

ant, by which the Commonwealth acquired their title, the character of his interest in the lands was wholly misconceived, and that the judgment in that case, operated only upon an estate in him, *for* LIFE. The demand by the party, plaintiff in the late suits who claimed the estate, as *a remainder in tail*, had been strenuously resisted by the tenants in possession, with the aid of able counsel employed by themselves, and of the solicitor general instructed thereto by the Legislature, and a learned Court had deliberately adjudged the law, in favor of the right to recover. The Commissioners also found, that *thirty two* Deeds had been given by the Agents for the Government, of different portions of the estate described in the judgment of confiscation, in all of which were express covenants of warranty of title to the Grantees, and that already *seventeen* suits had been instituted to evict them, or those who held under them. In two of these suits which had been tried, the provisions of the betterment act, were pleaded, but the verdicts of impartial Juries afforded little relief in their application. The whole subject, when thoroughly examined and understood, presented but a prospect of continued vexation and distress to the tenants, and of increasing responsibility and expense to the state, which could only be averted by a compromise, which should end litigation. Under these circumstances, and after much time and labour devoted to an investigation of the merits of the case, and earnest and often repeated endeavours to obtain the best conditions of settle-

ment, the Commissioners concluded an agreement with the Demandant, which, upon revision and mature consideration, has been ratified by the Executive. By the terms of the agreement, the Demandant was to execute to the Commonwealth a conveyance of his whole estate in the lands, in fee simple, and to receive from the Treasury in full consideration, the sum of *seventeen thousand five hundred dollars*, together with the taxable costs in the actions which had been commenced, amounting to about *seven hundred dollars* more. The conveyance has since been made, and the money paid accordingly.

Of serious concern as this business has thus unexpectedly proved, its amicable adjustment cannot but be regarded as favourable to the interests of the Commonwealth. The legal title of the Demandant could no longer be controverted. Although it was adjudged by a subordinate jurisdiction, yet so satisfactory had that decision appeared to a Committee composed of professional men to whom the subject was referred by a former Legislature, to the eminent lawyers who constituted the late commission, and to the Executive Council, that no reasonable expectation was to be indulged of a different result, upon an appeal to the highest tribunal. On the other hand, the obligation to indemnify the tenants, and save them undisturbed in the enjoyment of their possessions, resulted from express stipulations, which, whatever might be the capacity to enforce them, were binding in law, as

well as in equity, upon the Government. The price to be paid for the land was indeed great, but not greater than the value, as it had been already found by the verdicts of two Juries, (regarding the just proportion of the parts recovered to the whole,) nor yet so great as the estimate by disinterested and judicious men, called by the Commissioners to aid in its appraisement, nor as it was held by the tenants themselves. The papers which will be laid before you, will more fully explain all the measures which were taken to protect the interests of the State in the transaction, and will abundantly show, that however much the sacrifice, at first view, may appear to have been, no more has been yielded, than was due alike to the claims of justice, and to considerations of the highest expediency.

The Legislature, having by an order of the last session, required returns of the number of Deaf and Dumb persons in the several towns of the Commonwealth, with a view probably, to more general and adequate provisions for the relief of this afflicted class of our Fellow Beings, it becomes proper, that I should communicate to you, a suggestion made by Mr. Gallaudet, the Principal in the Institution at Hartford, in an official correspondence with this Department, of the inexpediency of sending Pupils to the Asylum under the age of *fourteen* years. He remarks, that "if they are to enjoy the privileges of an education, and, the males of learning a trade, the time between the ages of *fourteen* and *eighteen*, will be vastly more valuable to them,

than an earlier period." It cannot but convey the highest gratification to every philanthropic mind to be assured, that the munificent and enlightened charity of this Commonwealth in affording, for years, the means of instruction, and of future usefulness and enjoyment to more than *one third* of the whole number of Pupils in this interesting institution, has been followed by the most conclusive evidence of corresponding improvement and benefit. There have been no instances of an abuse of the public bounty. Under a practical construction which has been given to the Resolves of the Legislature, every person, who upon trial is found incapable of profiting by a continuance at the Asylum, is summarily removed, to give place to others who have talents to reap its advantages. There is also equal cause to be satisfied with the treatment of the pupils, and the reasonableness of the charges for their support.

It is with much regret, that I find occasion again, to call the special attention of the Legislature to the concerns of the State Prison. Whence it arises, that disappointment in results, so often follows the best promises of success, in the affairs of that establishment is not easily to be explained. Certain it is, that some more thorough investigation is required to discover the difficulties which may exist, than has yet been attempted. In the history of the Institution, we have, at one time, complaints of its enormous expense, and at another, objections to its police and discipline. The public mind has

never been suffered to be long satisfied with its condition, or well assured of its future improvement. For the few last years, the great source of disquiet, was in the hopelessness of moral reform in the convicts, from the manner of their confinement, and the consequent opportunities allowed them for association and evil communications with each other. Scarcely is this cause of uneasiness removed, by an effectual provision of the Legislature, for the construction of a building to admit of their greater restraint, when an unlooked for and astonishing reverse appears in the business concerns of the Institution. For the three years next preceding the last, the annual reports had exhibited large balances of *credit* to the Commonwealth, from the net earnings of the Prison. These balances respectively, in 1824, approximated to *four thousand dollars;* in 1825 exceeded *ten thousand dollars;* and in 1826, amounted to *nine thousand seven hundred* and *nineteen dollars* and *seventeen cents.* The accounts for the year 1827, on the other hand, now present a balance of *debit* against the Commonwealth of more than *six thousand dollars;* thus producing a difference and loss, of nearly *sixteen thousand dollars* between the operations of the last and the average of the two next preceding years. In the mean time, there has been no change in the discipline of the Prison, by which the labor of the convicts has been diminished; nor is a sufficient explanation to be found in their somewhat reduced number, in the course of the past year. The erec-

tion of the new building can have contributed nothing, (if the accounts are rightly stated,) to the occasion of the deficit inasmuch as the labor of the convicts employed upon it, with the cost of materials, and every other expense thereby incurred, are carried to the credit of the Institution. The fact which appears, is the more interesting and important as it tends to defeat an expectation, which had become confidently indulged, that without yielding any thing of intended improvement in discipline and salutary and more severe restraints, to views of profit, the Prison might nevertheless, well be made to indemnify the Government from expense in its future support. The hammering of stone had furnished the principal proportion of the amount of earnings in former accounts, and this employment, decidedly the best adapted to the character and condition of healthy convicts, was looked to, as a certain and permanent source of productive labor. It has lamentably happened however, that this branch of business, both in extent and in value, has greatly fallen off at the Prison, during the year.

On receiving the Report of the Directors, by which the unfavorable state of the accounts was first communicated to the Executive, at their annual visitation of the Prison in October last, such explanations were orally requested, as the occasion seemed to demand. Subsequently, upon the suggestion of the Directors themselves, I addressed to them, as also to the Warden, written communica-

tions, proposing precise and definite interrogatories upon the several points of inquiry, which were deemed important to a right understanding of the subject. To these, answers have since been given, and copies of the whole correspondence, with the Reports of the Officers of the Institution, are transmitted for your consideration.

It is but proper to add, that the Government of the Prison, in its influence upon the department of the convicts, through the year, has been entirely satisfactory. The Directors and other officers have, with assiduity and success, applied themselves to detect and repress every improper indulgence, and to enforce sobriety of behaviour and submission to authority. The Reports of the Directors and of the Physician, respectively, will be found to contain an earnest and elaborate vindication, deserving of your particular attention, as guardians of the character of the Commonwealth and its Institutions, against imputations which have been recently and extensively circulated in a popular publication, of mismanagement and abuses in the government of the Prison.

In answer to enquiries directed to the Warden, he has furnished a general statement of the progress which has been made in the erection of the new building, with the aggregate amount of cost hitherto, and an estimate of expense for its completion. By this exhibit, a copy of which is herewith communicated, you will also be informed of the *manner* and *time*, in which he proposes to finish the

building, and of the necessity of further appropriations to the purpose. An inspection of the work must produce entire conviction, that it has so far been executed in the most thorough and durable manner. It should be prosecuted and hastened to its accomplishment by the application of all reasonable means. In whatever else there may be disappointment, no apprehension should be indulged, that the utility of this improvement will be lost upon the future favourable condition of the convicts. The day of the occupation of the structure will be regarded as an epoch in the history of penitentiary reform. Solitary confinement, in its narrow cells, will constitute an outward seclusion from crime, and powerfully tend to subdue every inward incitement to sin.

During the past year, the Commissioners under the Act for the separation of Maine from Massachusetts have made further progress in the surveys and division of the public lands, and have divided and assigned in severalty, between the two states, in distinct Townships and tracts, nearly *eight hundred thousand* Acres, lying Southerly of the line run west from the Monument, and east and west of the Moosehead Lake. Transcripts of their records, duly authenticated by them, with plans and field notes, taken under their direction, which respect this division, have been returned to the office of the Secretary of the Commonwealth, and are deposited in the archives of State, pursuant to the provisions of the Act. Copies of the instru-

ment of Partition and assignment of the lands, containing a descriptive enumeration of the respective parts and quantities, together with a communication addressed to me by the Commissioners, are transmitted for your information. Under this Commission, there have now been divided and assigned of the public lands in the State of Maine, an aggregate of about *five millions of Acres*, which, the Commissioners say, "embraces probably all that for some time to come will be needed for actual settlement, and also the most of that which is exposed to depredation and plunder." They represent, that " the residue of the undivided land lies in regular and compact form, to the greater part of which, the British Government, is understood to have laid a claim, which, however unfounded, (they suggest) would much embarrass their further proceedings," and they ask direction from the Legislature of the respective States in relation to their remaining duties, and for an additional appropriation of money to the purposes of the Commission, if they shall now be required to prosecute them.

Although the inquiries suggested by the Commissioners are particularly addressed to the consideration of the Legislatures, and can be disposed of only by them; yet I cannot but feel it proper to remark, that the act of Separation being in the nature of a compact between this Commonwealth and the people of Maine, the execution of one of the terms of it, which requires the division of the

public lands within the period of ten years, is not to be dispensed with, but by mutual agreement. If, therefore, that portion of the allotted time, which is yet unexpired, might be regarded as too short to admit of delay in the completion of the service, a suspension of the work should not be insisted on by either of the parties against the consent of the other. But considering the situation of the remaining undivided Tract, there seems no urgency for hastening the division. It is represented to lie in a shape susceptible of easy partition, hereafter, by geographical lines, and it is mostly situate too remote from settlements, in a yet almost unexplored wilderness, to justify the expense at present, of that particular examination which is necessary to ascertain the relative value of the different parts. Besides, if the division is to be had upon surveys, these cannot now be effected without certain and direct collisions with British authority, by which nothing is to be gained either to the right or the enjoyment of the property. If it is to be made by the Map, the work is, at any time, within the compass of a few hours, and may be done whenever there is occasion. Delay will not justly be regarded as giving countenance to the extravagance of the British claims. The possession of the whole of the land by the States in common, is no less opposed to acquiescence in an adverse title, in that government, than a several possession of the parts. The question of postponing the partition, for a season should be treated as one, merely of *domestic expediency*, to be determined at the pleasure of the

States, and in no degree to prejudice the more important subject of foreign controversy.

To the recent occurrences in the North Eastern section of the State of Maine, the Government of this Commonwealth cannot be indifferent. After the measures which were heretofore adopted, for suspending the Resolves for quieting settlers in their title to lands in the neighbourhood of the St. Johns and Madawascah Rivers, and for the construction of the Fish River Road, all within the line claimed by the United States as their certain Boundary, it was not to have been expected, that complaints would be heard of hostile acts, alleged to have been committed by the authority of a Government, which had first proposed mutual forbearance in the exercise of jurisdiction and the rights of property, upon the disputed territory. Whatever may hereafter prove to be the true character of the late proceedings, by officers of the Province of New-Brunswick, there is doubtless much occasion for alarm and anxiety on the subject. Collisions often repeated, even between private individuals, inhabitants of a border country, who claim justification and protection from different sovereignties, must necessarily lead to the most serious public results. Upon the first distinct intimation of the aggressions which are complained of, a letter was addressed to the Governor of Maine, requesting information of the nature and extent of the wrongs which had been suffered, and expressing the sympathy of this government with the people and government of the state over which he presides, under any injuries

which had been inflicted, and a readiness to co-operate in all justifiable and constitutional means to obtain redress. I was informed in reply, that a special agent had been appointed, to ascertain the facts, the issue of whose inquiries has not yet been communicated. It is satisfactory to know, that the subject is also in a course of investigation by the General Government, and there is reason to hope, that by discreet and faithful counsels, as by firm resolves, the present threatenings of evil may be averted. But the excitement which has been created in the neighbourhood of the events, should be admonitory to a speedy removal of the cause, which otherwise may again at any time, produce it. Not only the interests of the states owning the property, but the peace of the nation demands, that this boundary should be distinctly designated *upon the face of the country*. It is but a matter of the strictest right. The sovereignty of states is not to be abridged, nor the claims of citizens to protection and the enjoyment of the privileges of freemen to be sacrificed, by unreasonable delays, or compromising negociations. Where the land marks were defined to be, on the recognition of our national Independence, there they are to remain established. The occasion to *renew*, furnishes no authority to *remove* them.

That object of ceaseless concern, the Massachusetts claim, has not failed to receive due attention, from the Executive. It must be well remembered, that early in the second session of the last Congress, on the motion of an honorable member of the House

of Representatives from a neighbouring state, it was suddenly sent back to the Secretary of War, with instructions to report upon the supposed application of certain discriminating principles to the different items of the service. Although this measure, however intended, cannot but be regarded as an act of great injustice to the rights of the State, in as much as it could not fail to produce further delay in the settlement of the accounts, yet so decidedly and summarily was it adopted, as scarce to afford opportunity for remonstrance or objection. The reference was indeed actually made, before it could be known here, that it had even been proposed. It might have been shown, as it is believed, that every fact important to a dispassionate discussion of the question of allowance was within the control of the House. The auditing of the accounts had already once been had, and the general evidence upon which the merits of the case rested, was to be found in a mass of published documents, in the possession of every member. The subject having, however, been imperatively disposed of by the House of Representatives, there remained nothing but a necessity for acquiescence, until the Report of the Secretary could be made. The pressure of business in his department, precluded the expectation of this, during the residue of a short session of Congress.

In the execution of the duty required of the Secretary, he has deemed it essential to a compliance with the order of the House, that an entire revisal of the accounts should be had, and this pre-

liminary service was immediately assigned to the third Auditor of the Treasury.

This officer, as I am informed, has since, and to this time, been principally occupied, with the assistance of two clerks, in a minute scrutiny of all the charges, and in preparing exhibits, referring each particular item to its appropriate voucher. The work is now understood to be nearly accomplished, and the Report of the Secretary may reasonably be soon looked for. When obtained, it may furnish occasion for further communications to you on the subject.

From the passing of the Resolve of the 20th of June 1826, empowering the Governor with the advice of the Council "to appoint an agent to prosecute the claim, and to perform all requisite services in respect to it, under instructions from the Executive, whenever a bill for its payment in whole or in part may be passed by Congress, or such other circumstances may occur as to make the appointment of such agent expedient," I have not been advised, that there was occasion, at any time, to execute the authority. The Delegations from Massachusetts and Maine, have been repeatedly consulted on the subject, and such information as I have been enabled to obtain, by diligent application to the best sources of intelligence, has been faithfully submitted to the consideration of the Executive Council, who have unanimously concurred in the opinion, that such appointment, under existing circumstances, was not required. The peculiar character of the investigation directed by the Sec-

retary, excluded any aid from an agent of the State. The service was in charge of an able accountant, who had before gone over an examination of the papers, with the former agent, and was familiar with their general import and arrangement. Two gentlemen of the Delegation have been more particularly requested to give their attention to those inquiries which the interests of the Commonwealth might suggest, and upon consultation with their colleagues, and the Delegation from Maine, to favor me with such communications, from time to time, as the state of the business should render proper. It is believed, that, in this manner, all valuable information has been obtained, and the expenses of a special agency, which must have been in a great degree useless, are altogether saved.

It is in the discharge of a duty, no less painful than imperative, that I present to your notice the state of the fiscal concerns of the Commonwealth. This subject has, more than once, been made the topic of earnest appeal to the provident forecast of those, who alone were competent to supply the means of public revenue. That which expediency has failed to influence, necessity will now demand. As was anticipated on the last annual exhibit of the treasury, it has resulted, that, in the omission to provide additional sources of income, *the expenditures have greatly exceeded the receipts of the year.* It appears by the Treasurer's accounts, made up to the first day of the present month, that *this excess* amounts to *sixty three thousand, three hundred* and *eight dollars* and *nine cents.* At the close of

the last year, the balance of cash in the Treasury was *eighty three thousand, seven hundred* and *seventy four dollars* and *eighty two cents*, which is now reduced to *twenty thousand, seven hundred* and *ninety six dollars* and *thirty three cents*, and upon *this*, even, there are claims for services already rendered, and on warrants and rolls, and for salaries due, sufficient for its entire exhaustion. The total of the Bank taxes for the year, have been paid in, and there is nothing more to be obtained from this principal resource, until after the first of April next. In the mean time, the expenses of the support of Government, the civil list, your own legislation, can be discharged only by a resort to loans. The fact is to be stated plainly, that the exigency may be understandingly and fairly met. In a few days, there will not be a dollar in the Treasury applicable to either of the above purposes, except by borrowing. Indeed, in the course of the past year, it has repeatedly been made necessary for the Treasurer under the authority of former Resolves of the Legislature, to apply to the Banks for money, in anticipation of the Bank taxes and auction duties, which are payable only at stated periods, and which, with the exception of small sums occasionally received on Bonds and Notes given for sales of eastern lands, are now the only sources of Revenue. It has been heretofore shown, that the ordinary expenses of Government, according to the average of late years, could not be defrayed, by these means. In 1826, the sum of *twenty nine thousand, six hundred* and *fifty five dollars* and *ninety five cents*, of the arrearages of direct taxes granted by the Legislature

in preceding years, was received into the Treasury, and yet there was a deficit; while but *three hundred* and *sixty five dollars* and *fifty nine cents* remained to be paid, on this account, in 1827. On the other hand, by recurring to the history of recent legislation, it will not be difficult to assign causes for much of the increase of expense, by which the amount of annual income is absorbed.

Within a few years the whole cost of the administration of the Probate laws has been cast upon the Treasury. The Legislature has been the almoner of the public charity, in liberal and most beneficent contributions to the support of the Deaf and Dumb. Agriculture and Manufactures have received a well justified bounty in the encouragement given to Agricultural Societies. The Commission for the division of the Eastern Lands under the Act for the separation of Maine, has necessarily been of expensive execution. Measures have been pursued for the advancement of objects of general improvement. The business of the legislation has been wholly compensated from the common fund. In the course of the past year, still more extraordinary charges have been incurred. Nearly Twenty-one Thousand Dollars have been paid in the settlement of the suits for the recovery of the confiscated lands in the County of Bristol, and in another indemnity to certain Heirs to an estate in Charlestown in the County of Middlesex, which was erroneously adjudged to have escheated to the Commonwealth, and had been sold on account of the Government, and Ten Thousand Dollars have been applied towards the construction of

the New Prison. Many of these occasions of charge are not again to occur, yet some of them will continue, and others, from time to time will be presented, with claims to be provided for, under a just and wise administration of Government. The existing state of things devolves upon the present Legislature a high and pressing responsibility. However much more prudent it might have been *heretofore*, to have guarded against embarrassments, in the finances, there seems *now*, no alternative to the duty of an immediate application of means to relieve and improve them. To my apprehension, the grant of a tax, undesirable as it may be deemed, as a permanent measure, is nevertheless indispensable, as an expedient, until other productive sources of revenue, corresponding with the wants of the government, shall be agreed upon. Such was the accustomed mode of former years, which from its equal bearing, in principle, upon the estates of all, and the comparatively inconsiderable amount required to be thus annually raised, and its easy collection, was found to be little burdensome to any. Loans will but increase the necessity of resort to it, at last, with aggravated severity. These must, at some time, be met, and it may be, in a day of diminished prosperity. I respectfully submit the whole subject for your consideration, upon the additional details which the Report of the Treasurer will afford, with an earnest recommendation, that making retrenchments, wherever they are justly admissible, and regarding a wise economy in every thing, you would not suffer the present session to pass, without also providing a certain revenue for the ensuing year, which shall be adequate to the ordinary expenses of the support

of government, and to such other and further expenditures for objects of high importance, as the honor and best interests of the Commonwealth, in its advancement in improvement, will continue to require.

Some days subsequent to your adjournment, I received a Letter from Brigadier General Theodore Lyman, Jun. declining the office of Major General of the First Division of Militia, to which he had been elected by both Branches of the Legislature, and it becomes a duty to avail myself of this first opportunity to inform you of the continued vacancy in that command.

The Constitution has, either expressly, or by necessary implication, assigned to the Chief Magistrate of the Commonwealth, as Commander in Chief, important duties in the administration of the laws, which respect the organization and discipline of the Militia. To the discharge of these, I have endeavoured to give that faithful attention, which strong personal convictions of the importance of the Institution to the preservation of civil liberty, cannot fail to enforce. The security afforded to the enjoyment of the blessings of a Republican Government, by this modification of the physical force of a people, requires not, at this time, to be pressed upon your consideration. A well organized Militia is universally admitted to be the safeguard of national freedom and independence. In Massachusetts, I may add, its *efficiency* and the *intelligence* and *character* of the mass of citizens who compose it, essentially contribute to the moral and political influence of the State. In the course of the last and the two preceding years, I have reviewed, with great satisfaction, such portions of the

Troops, in the different Divisions, as could be presented for the purpose, without occasioning particular inconvenience to them, in the time and manner of their being assembled. These personal observations have afforded appropriate opportunities for expressions of high and well deserved commendation of their excellent spirit and soldierly appearance.

The late inspection Returns show an aggregate of *Fifty four Thousand nine hundred* and *Twenty six* enrolled Men, of whom forty nine thousand nine hundred and ninety one are *Infantry*, three thousand two hundred and twenty four *Artillery*, and one thousand seven hundred and sixty one *Cavalry*. Of the Infantry, about eight thousand, are organized into Companies of Light Infantry, Grenadiers, and Riflemen, and for fulness of equipment and perfectness in discipline are probably not excelled in the Militia of the Union. Believing that it could not fail to be useful to present a more precise and detailed statement of the organization, condition, and ready preparation of the whole militia of the Commonwealth, than has been usual or would be convenient in an Executive communication, I required of the Adjutant and acting Quarter Master General such an exposition on these points, as his military observation and the Records and Documents in his Department would enable him to make. In compliance with the request, this able officer has furnished an interesting and valuable Report, which I have the satisfaction to lay before you, as entirely deserving of your confidence and most favorable regard. When it is considered, that with all the immunities and exemptions which are afforded by the laws, at least *one*

tenth part of our whole population are still directly subject to the performance of Militia duty, it cannot but be reasonable, that a portion of Legislative attention should be bestowed upon the subject. There are inequalities and burdens from which this meritorious service ought to be relieved. It now falls with unjust and oppressive weight upon a class of men, who from their pecuniary circumstances, manner of employment, or relations in society, are least able to sustain it, while others, more favored of fortune or in situation, yield little or nothing as an equivalent for avoiding its obligations. Much which might be proposed for the relief of the citizens from this tax of personal service, is denied to the State Government, by the controlling authority of Congress over the period of enrolment. Yet some palliative may be offered to the occasion of present complaints. The time of active duty in the Train Bands, may be abridged. Although the men are to be *enrolled* and *equipped*, in compliance with the laws of the United States, they may be excused from *drill* and *discipline*, except within a more limited age. The absolute exemptions should then be less numerous, and the forfeitures for neglects higher and more definitely and strictly appropriated to the encouragement of those, who perform the service. To preserve efficiency and good appearance in the Companies, these should not be multiplied, except where there is a full complement of men to compose them. Volunteer corps should be encouraged, but the numbers required for their organization should be increased, and whenever their ranks become materially reduced, they should be disbanded. In this latter respect, I more particularly recommend

an alteration of the present law, in enlarging the number, by at least one half its present sum, below which volunteer corps shall not be permitted to remain. Nothing can be more absurd in military arrangements, or more directly tend to repress a spirit of improvement, than thin ranks in companies having nearly an equal number of Officers with the privates to be commanded. The inspection rolls already show too many instances of this, in the Militia.

If in conformity with these general suggestions of opinion, which are with great deference submitted, the period of liability to military duty, beyond what is required by the United States laws, was confined to the ages between *twenty-one* and *twenty-seven* or *thirty* years, and with the exemptions only, which those laws create, and public and incompatible engagements in the State should render necessary, *all* were made subject to its performance, under enhanced and substantial penalties, faithfully appropriated to the encouragement of the Corps to which delinquents should belong, it is believed, there would be an essential equalization of the burden, which is necessarily imposed to preserve any degree of militia organization. The shorter continuance of the liability and its exclusive application to young men least sensible to its inconvenience, would remove the pressure from those, upon whom, it has hitherto borne, with the greatest severity.

At the January session of the Legislature of the last political year, I transmitted by special message, an application of the Secretary of the Navy of the United States, made at the instance of the Commissioners of Navy Hospitals, for a cession of juris-

diction to the National Government, over a tract of land in the town of Chelsea, for the use of a Navy Hospital, at that place. Upon recurring to the Journals and files of the two Branches, it appears, that no definite determination was had upon this application. In the House of Representatives a bill was introduced, which was referred to a select Committee, who subsequently reported specific objections to its passage, *in the shape in which it then was*, which report was accepted. In the Senate, an order of reference to the next session was adopted; and in neither branch, has the subject been since moved. Very recently, the Secretary of the Navy has addressed to me a request, that I would again call the attention of the Legislature to the application, and I do it with the more readiness, from a conviction, that no object can be presented, better entitled to favourable regard, than this interesting provision for the relief, and comfort, and support, in infirmity and the decline of life, of gallant seamen. The Hospital at Chelsea, is intended as a haven to them from the storms of exhausted years, and the disabilities which war inflicts, upon a class of men the first and most exposed to its destructive effects. It will be the honored asylum of the sea-worn sailor, and of the scarred and mained veteran, in their country's perilous service. Patriotism and benevolence are alike the advocates for encouragement to the purposes of this noble Institution. The objections, which were heretofore offered to the cession of jurisdiction, are easily obviated, and at least, a grant, modified to the occasion, and limited in extent and duration by the actual improvement of the land for the use of a Hospital, with the usual reservation of a concurrent

jurisdiction, may, as it seems to me, with safety and propriety be conceded.

The members of the Legislature have at this time, the gratification of personally witnessing the execution of the Resolve of the 12th of June last, which authorized the erection of a suitable building for the reception and permanent location of the Statue of Washington, by the Artist CHANTREY, procured at the cost and under the direction of the Washington Monument Association. The Trustees of that association have accomplished the interesting commission with which they were charged, in a manner alike honorable to themselves, and satisfactory to the public. A splendid specimen of the arts, and an enduring memorial of grateful remembrance to noble virtues and patriotic services, is seen in the Statue, which now adorns this Edifice. Henceforth, the image of *him* "*who was first in the hearts of his Countrymen*," will be sensibly present in the halls of the government, with the representatives and servants of the people, to keep constantly alive in their minds, the recollection of his precepts and farewell injunctions, and to animate them in the performance of public duty, by the teachings of his example, forever. No other place was so suited to the position of this grand and impressive object. It will here remind us all, of our obligation to country. It will reprove in us, and those who shall come after us, so long as a virtuous sentiment shall remain to respect the consecrated marble, every disloyal and unpatriotic feeling. It will instruct *Rulers*, how they are responsible to the people, and the *People*, what should be the character of their rulers. It will speak more eloquently than tongues, of the pre-eminence of

the civic virtues; of the sovereignty of the laws; of reverence for the Constitution; of the inviolability of the Union.

To the Washington Monument Association, not only is the *Country* indebted for the possession of the Statue, but *this Commonwealth*, most especially, for its location and the entire expense of the appropriate and elegant Room which has received it. The pecuniary benefaction has amounted to the considerable sum of *sixteen thousand dollars*, and as the result of an elevated spirit of liberality, it should be borne in grateful and perpetual remembrance.

Regarding the present session, but in the true light of a resumption of those public engagements upon which we have before entered together, under the highest sanctions, it would be an unnecessary occupation of time, again to advert to considerations of general policy, which were more appropriately presented, upon the organization of the Government, at the commencement of the political year. I therefore purposely confine this communication to subjects of particular concernment, which have occurred during the recess, to require attention. It only remains to me, on this occasion, that under a deep sense of constant dependence upon a benevolent and gracious Providence, which directs in the destinies of Nations, and guides the counsels of Men, I unite with you, in invoking the divine blessing upon our remaining official duties, that they may be discharged with fidelity to our consciences and our Constituents, and be followed with rich and lasting benefits to our Commonwealth and our Country.

LEVI LINCOLN.

Council Chamber, Boston, January 2, 1828.

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